IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 2799 of 1999

Between:

S.Sivaiah Naidu, S/o. Siddaiah Naidu.
I Additional District Judge, Cuddapah District.

..... PETITIONER

AND

1 The High Court of A.P., Rep.by its Registrar (Administration).
High Court Buildings, Hyderabad.
2 The State of A.P., Rep. by its Chief Secretary to Govt.,
General Administration Department, Secretariat, Hyderabad.
3 The District & Sessions Judge, Cuddapah.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records, pertaining to the proceedings Order Roc.No.4518/97-B.Section dated Nil November, 1997 issued by the 1st respondent and quash the same as illegal, arbitrary, unjust and unconstitutional, being violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to enter the date of birth of the petitioner as 08/07/1953 in the service register and pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.P.JAGADISH CHANDRA PRASAD

Counsel for the Respondents No.1 & 3 : SMT.M.BHASKARA LAKSHMI (SC

FOR APHC)

The Court made the following :

ORDER :

(Per The Hon'ble Sri Devinder Gupta, The Chief Justice)

The petitioner is questioning the action of respondents in not correcting his date of birth as 08.07.1953 in place of 03.01.1952 as illegal and contrary to law and consequently seeks direction for correction and change of date of birth. Petitioner's case is resisted by the respondents on affidavit filed by the Registrar (Administration).

Petitioner applied for the post of District Munsif of A.P. State Judicial Service to the Secretary, A.P. Public Service Commission, Hyderabad, notifying in the application that his date of birth was 03.01.1952 as per school records. Petitioner was selected for appointment as District Munsif by direct recruitment by G.O.Ms.No. 435, Home (Cts.C) Department, dated 21.08.1985. He reported for training on 07.10.1985. Thus the petitioner joined duty on 07.10.1985. For change of date of birth, for the first time, the petitioner made a representation only on 19.12.1985, whereas the Rules on any declaration regarding the date of birth envisage that an employee can seek change of date of birth within a period of one month from the date when he joined the duty. Affidavit in reply says that the Registry in its letter dated 04.09.1987, asked the District Judge, Kadapa to make enquiry with regard to correctness of the date of birth and submit report. The petitioner thereafter has referred to the

decisions of the Supreme Court in Civil Appeals No.15432 of 1996 dated 26.11.1996 and 12087 of 1997 dated 09.04.1997, holding that an officer is entitled to seek change of date of birth only in case of bonafide mistake regarding date of birth at the time of employment and states that when the report of the District Judge, Kadapa was placed before Administrative Committee, the said Committee dismissed the petitioner's representation on 15.10.1997.

Petitioner himself having declared his date of birth as 03.01.1952 and having failed to seek appropriate correction therein within the time fixed under the relevant Rules, cannot seek any direction for change in date of birth. Nothing prevented the petitioner from mentioning the correct date of birth at the time when he sought his appointment, in case, the date of birth was incorrectly mentioned and to seek its correction within one month from the date of appointment. Having not done so, there is no ground on which the action of respondent No.1 can be faulted with.

The Writ Petition therefore, is dismissed. No costs.

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DEVINDER GUPTA, C.J.

15th December, 2004.

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M.NARAYANA REDDY, J

ajr/vr.

To

1 The Registrar (Administration), High Court of A.P., High Court Buildings,

Hyderabad (with records).
2 The Chief Secretary to Govt.,General Administration Department, Govt. of

A.P., Secretariat, Hyderabad.
3 The District & Sessions Judge, Kadapa.

4 Two C.D. copies.